

Centre for Food Safety
Food and Environmental Hygiene Department
Notes of the Fortieth Meeting of the Trade Consultation Forum
held on 20 June 2013 at 2:30 p.m.
in Conference Room at Room 102, 1/F, New Wan Chai Market,
258 Queen's Road East, Wan Chai, Hong Kong

Present

Government Representatives

Dr. Y. Y. HO	Consultant (Community Medicine) (Risk Assessment & Communication)	(Chairman)
Mr. POON Kin Ip	Deputy Head, Consumer Protection Bureau (2) (Acting) Customs & Excise Department	
Ms. Diana YAU	Deputy Head, Consumer Protection Bureau (2) Customs & Excise Department	
Dr. Janet HO	Senior Medical Officer (Risk Communication)	
Dr. Allen CHAN	Senior Medical Officer (Risk Assessment)	
Mr. TSE Lai Chi	Superintendent (Import/Export) ³	
Mr. CHENG Wai Kit	Superintendent (Food Surveillance) ²	
Dr. Ken CHONG	Scientific Officer (Biotechnology)	
Ms. Joey KWOK	Scientific Officer (Food Additive)	
Mr. CHIU Cheuk Ling	Chief Health Inspector (Food Labelling)	
Ms. CHUNG Sau Wai	Superintendent (Risk Communication)	(Secretary)

Trade Representatives

Mr. Andrew WONG	Abbott Laboratories Limited
Ms. CHO Siu Yung	AEON Stores (Hong Kong) Co., Limited
Ms. LAU Wai Han	AEON Stores (Hong Kong) Co., Limited
Mr. TSANG Wah Him	Calbee Four Seas Co. Ltd.
Mr. George WONG	Campbell Soup Asia Ltd.
Mr. Gary YU	Catalo National Health Foods Ltd.
Ms. Jase CHOI	Catalo National Health Foods Ltd.
Ms. LEE Yan Yin	China Dragon Inspection & Certification (HK) Ltd.
Mr. WONG Chi	China Dragon Inspection & Certification (HK) Ltd.

Ms. Samantha TSANG	China Resources Vanguard (HK) Company Limited
Ms. LEUNG Wing Shan	City Super Ltd.
Mr. Cyrus FUNG	CMA Testing & Certification Laboratories
Ms. Elaine WONG	CMA Testing & Certification Laboratories
Ms. May KAN	Coca-cola China Ltd.
Ms. Antoria Martinez	Consulate General of Spain
Ms. Marina NG	Consulate General of The Netherlands
Ms. Christabel CHENG	Danone Baby Nutrition (HK) Ltd.
Ms. Kit CHOI	Danone Baby Nutrition (HK) Ltd.
Ms. LEE Yan Kiu	DCH Food Mart
Mr. Enders WONG	Eurofins Food Testing Hong Kong Limited
Mr. Freddy FONG	Foodscan Analytics Ltd
Ms. Natalie YUEN	Friesland Campina (Hong Kong) Limited
Ms. Fiona LEUNG	GlaxoSmithKline
Ms. Amanda WONG	Glee Foods Ind. Ltd.
Mr. Nam TO	Global Wellness Logistics
Ms. Heidi HO	GS1 Hong Kong
Ms. Vicky WONG	Health Affluence Technology Group Co., Ltd.
Ms. Janice TAM	Health Affluence Technology Group Co., Ltd.
Ms. Keith KEI	Herbalife Asia Pacific Service Ltd.
Ms. Yuki WOO	Hin Sang Hong Company Ltd.
Mr. Allen PANG	Home of Swallows Ltd.
Mr. TAM Hop Sing	Hong Kong Federation of Restaurants & Related Trades
Mr. Martin WONG	Hong Kong Health Food Association
Mr. Perry SIT	Hong Kong Health Food Association
Ms. May LO	Hong Kong Retail Management Association
Mr. Peter Johnston	Hong Kong Retail Management Association
Mr. Takuro Mori	Hong Kong Yakult Co., Ltd.
Mr. Gray LO	Hong Kong Yakult Co., Ltd.
Ms. Corine LIU	Hong Kong Yakult Co., Ltd.
Mr. Marco LO	Institution of Dining Art
Ms. Becky CHEUNG	International Food Safety Association
Ms. CHU Siu King	Kado Development Limited
Ms. Alice WONG	Lee Kum Kee International Holdings Ltd.
Mr. Stephen LAM	Mannings
Ms. Eva POON	McDonald's Restaurants (Hong Kong) Ltd.
Mr. William TSUI	Mekim Ltd.
Ms. Queenie IP	Mekim Ltd.

Mr. Kelvin WONG	Natural Alliance Co., Ltd.
Mr. LEO FOK	Natural Alliance Co., Ltd.
Mr. Joseph MA	Nestle Hong Kong Ltd.
Mr. Rayson NG	New Zealand Products (HK) Ltd. - Smileygrowth
Ms. AU Yee Kam	Nine to Five Limited
Mr. Nam HO	Nine to Five Limited
Mr. LAM Tsz Mau	Nissin Foods Co., Ltd.
Mr. Herbert LEE	Nissin Foods Co., Ltd.
Ms. German CHEUNG	Pappagallo Pacific Ltd.
Ms. Yuki WONG	Pappagallo Pacific Ltd.
Ms. Cactus LAI	ParknShop
Ms. YU Chi Yin	Pizza Hut HK Limited
Ms. YAN Wing Hei	Polyfood Food Service Co., Ltd.
Ms. LEUNG Lai Fong	Polyfood Food Service Co., Ltd.
Ms. Carol LAI	SGS Hong Kong Limited
Mr. Joseph YOONG	Sharpwell Technology Ltd.
Mr. LAU Shing Hin	Sun Yik Food Limited
Mr. WONG Kam Chuen	Swire Coca-Cola HK Ltd.
Ms. Clara LAM	The Dairy Farm Group
Ms. Tess WONG	The Garden Co., Ltd.
Ms. Jessie YIU	The Garden Co., Ltd.
Ms. Kammy YEUNG	The Hong Kong Standards and Testing Centre Ltd.
Ms. Candy HON	The Hong Kong Standards and Testing Centre Ltd.
Ms. Abby WONG	Tingyi-Asahi Beverages Holding Co., Ltd.
Ms. Wing CHEUNG	Unilever Hong Kong Ltd.
Mr. Attlee LAU	URC Hong Kong Co., Ltd.
Ms. Cecilia TAM	Vita Green Health Products Co., Ltd.
Ms. Celine YUNG	Vital Care Hong Kong Ltd.
Mr. Sidney NG	Vital Production Ltd.
Mr. CHAN Chi Kong	Vitasoy Int'l Holdings ltd.
Mr. Philip KWAN	Wrigley Asia Pacific
Mr. Tony CHOW	Wyeth (HK) Holding Co., Ltd.
Ms. Amy FU	Wyeth (HK) Holding Co., Ltd.
Mr. CHEN Man Tak	Yue Hwa Chinese Products

Opening Remarks

The Chairman welcomed all trade representatives to the 40th meeting and introduced government representatives to the meeting.

Confirmation of the Notes of Last Meeting

2. The notes of last meeting were confirmed without amendments.

Agenda Item 1

Trade Descriptions Ordinance

3. Mr. POON Kin Ip briefed the meeting on the Trade Descriptions Ordinance, Cap. 362 (TDO) and the responsibilities of Intellectual Property Investigation Bureau (IPIB) and Consumer Protection Bureau 2 (CPB2) in Customs and Excise Department (C&ED). He advised that the TDO aimed at prohibiting false trade descriptions and forged trademarks in respect of goods provided in the course of trade or business. While IPIB was responsible for investigating forged trademark cases, CPB2 was responsible for those on false trade descriptions. He explained the definitions of trade descriptions and false trade description in relation to food trade and illustrated with examples.

4. Mr. POON Kin Ip advised that the Legislative Council (LegCo) passed the Trade Descriptions (Unfair Trade Practices) (Amendment) Ordinance 2012 (Amended TDO) on 17 July 2012. The Amended TDO included new fair trading sections and would come into force on 19 July 2013. The major amendments in the Amended TDO included extending the scope of trade description to cover service trade in which “service” was added to the

definition of trade description. The Amended TDO stipulated the prohibition of five types of unfair trade practices, namely Misleading Omission, Aggressive Commercial Practice, Bait Advertising, Bait and Switch, and Wrongly Accepting Payment. The final draft of the Enforcement Guidelines on the Amended TDO was available on the website of C&ED for reference of traders.

5. In reply to enquiries from trade representatives, Mr. POON Kin Ip advised that it did not constitute an offence under the TDO when the description on a food product, which was composed of different raw materials, spelled out that the product was composed of different raw materials. There was also no offence when the description claimed that the function of the product varied from person to person depending on the body condition of individual persons. He added that any false description must reach a material degree before enforcement action would be carried out as it was not practicable to investigate all allegations of false trade description. Ms. Diana YAU supplemented that proof of evidence was required to substantiate a case of false description that had reached a material degree and this would be carefully examined. She advised that it was likely to commit an offence under the TDO when the country of origin was described wrongly on the package of product only because the product was repacked into smaller units for sale. As to the place of manufacture or the origin of the goods, Section 2 of the TDO had clear definitions. In enforcing the TDO, evidence would be collected, having regard to respective clauses of the TDO, to prove a case of offence(s).

6. A trade representative sought advice on the guidelines for the percentage of beef that should be contained or found in a beef ball in order to describe it a “beef” ball even though it might be understood that beef should be the highest portion among all ingredients in the beef ball. Such information would ease the concerns of trade and help the trade to comply with

the TDO. Ms. Diana YAU advised that there was a pre-condition for proving an offence under the TDO, i. e. a trade description already applied to the product for sale. She pointed out that the spirits of TDO were intended to uphold the consumer interest that would be met by accurate trade descriptions provided on the goods. An average consumer would expect that beef balls should contain beef or a certain percentage of beef. She suggested that suppliers should provide correct trade descriptions for their goods in order to uphold their reputation.

7. A trade representative sought advice on the interpretation for “material degree”, whether this included financial loss, and whether the free after-sale service attached to a purchase of product came under the regulation of the TDO. Ms. Diana YAU advised that “material degree” hinged on whether the expectation of consumers, because of the trade description, was met with the product. There was no hard and fast rule to interpret “material degree” because of the uniqueness of individual products, yet it was not impracticable to appraise this objectively, in particular when the description is misleading to a significant degree. She also advised that the Amended TDO was all embracing and would cover after-sale service associated with a product.

8. A trade representative sought advice on whether it would be “Misleading Omission” when written articles posted up on social media of internet introducing a product done by the concerned supplier. Ms. Diana YAU advised that it would be an offence when there was commercial practice for interests without the concerned commercial intent stated and this could be substantiated with proof of evidence.

Agenda Item 2

Food Product with False Description

9. Mr. CHIU Cheuk Ling briefed the meeting on food product with false description and the role played by Centre for Food Safety (CFS) in such cases, which arose from a report in mass media in late May 2013 alleging that some shops were suspected of selling beef ball without beef. He explained that the situation, if substantiated, would commit offences against Section 52(1) and Section 61(1) of Public Health and Municipal Services Ordinance, Cap. 132. He advised that, according to Section 1 of Schedule 3 to Food and Drugs (Composition and Labelling) Regulations, Cap. 132W, the food name or designation of a food product should not be false, misleading or deceptive in any respect as to the nature of the prepackaged food or an offence would be committed. However, any customary or traditional name in use in Hong Kong before the commencement of Cap. 132W and indicative of a particular food might continue to be used as the name of that food, unless and until the Gazette prohibited such use.

10. Mr. CHIU Cheuk Ling continued that CFS would refer cases of complaint about fake / counterfeit food to C&ED for follow up action under the TDO and would follow up cases relating to food, which were suspected not of the nature / substances it was labelled under food complaints / referrals. Prosecution would be taken out against offender when there was sufficient evidence. He advised that trade should only use food that satisfied safety and quality requirements, maintain proper records in accordance with the Food Safety Ordinance, Cap. 612 (FSO) to allow tracing the source, source food from reliable suppliers, which included checking the source and quality of food ingredients, food business licenses of suppliers and registration of suppliers as food importers or distributors under the FSO.

11. In reply to enquiry from a trade representative on the percentage of beef in beef ball to justify naming it “beef” ball without contravention to any law, Mr. CHENG Wai Kit advised

that there was no definition under Cap. 132 and Cap. 132W for beef ball. The advice of Department of Justice (D of J) was being sought on whether there was an offence for the reported case of beef ball without beef composition.

12. A trade representative sought advice on the percentage of raw material that should be contained in a food product in order to name the product after the raw material. It was understood that some food products had to contain various ingredients and raw materials in order to produce the food product efficiently and economically. The Chairman noted that the report on beef ball without beef composition arose from beef ball that was not pre-packaged. Pre-packaged beef ball was already regulated under food labelling legislation. He advised that trade should pay attention to the potential social-religious disputes that might arise from unclear information on food label in view that some religions did not approve eating certain kind of meat. He pointed out that, except for a handful of food products, there was no requirement or standard on the composition of a food product in Hong Kong and there was no plan to set up such standards. Setting up standards on the composition of food where there was no element of hazards was not an area of priority for CFS. In fact, it should not be a problem to trade with pre-packaged food product when the ingredients in the composition of the food product were regulated under the legislation on labelling. For food product that was not pre-packaged or food that was sold for immediate consumption at an eating place, trade might consider informing consumers on the menu the ingredients that were “contained” in the food. The public might be taught to understand that many foods had to be produced with various raw materials that were not reflected by its name, but some consumers might not understand the situation. Suitable measures would be considered after D of J offered their advice. In case standards on the composition were considered useful, trade might make reference to standards promulgated in the Mainland and those in other countries.

13. A trade representative found that there was potential conflict with customers in the catering industry when the industry took the standards in the Mainland or other countries as reference because these standards varied among different countries. He sought advice on the way forward to resolve such conflicts. The Chairman advised that the discussion at the meeting originated from the stance of law enforcement. When there was no standard for law enforcement, the advice of D of J would be sought. Nevertheless, CFS was not in a position to offer advice on the standards. Traders might consider resolving this situation by themselves and make reference to overseas standards. Mr. POON Kin Ip remarked that C&ED as a law enforcing department, was not appropriate and thus did not lay down any standard for the representation on the composition of food.

Agenda Item 3

Reducing Sodium (Salt) in Food

14. Dr. Allen CHAN briefed the meeting on the progress of reducing sodium (salt) in food. He explained the relationship between sodium / salt and health and the background to the proposal of reducing sodium in food. He invited traders to join the Working Group on Reducing Sodium in Food (WGRSF) that was set up in March 2013 with the following Terms of Reference:

- a) To identify ways to reduce sodium consumption via processed food products as part of the overall strategy to reduce population intake of sodium so as to enhance public health;
- b) To establish local targets on reducing sodium in processed food products; and
- c) To propose and advise on the publicity activities concerned.

15. Dr. Allen CHAN advised that the WGRSF had held two meetings, the first one on 27 March 2013 and the second one on 13 June 2013. Local and multinational food manufacturers and suppliers, catering industry and academics were present at the meetings. The way forward on the matter discussed at the two meetings included an action plan to reduce salt / sodium intake in Hong Kong by identifying areas of feasible sodium reduction in different food categories, establishing agreed reduction targets, exploring the provision of information on sodium content in food to consumers and voluntary labelling of nutrients (including sodium) in food provided in restaurants as well as a survey on the delivery plan for reducing sodium in foods among members of the WGRSF. Besides, there were local initiatives on reducing sodium intake in the population as follows:

- a) Promoting healthy lifestyle (including low salt diet);
- b) Conducting studies on salt (sodium) in food;
- c) Providing a local database on nutrients content including sodium in food (Nutrient Information Inquiry System or NIIS);
- d) Implementing the Nutrition Labelling Scheme;
- e) Issuing the Trade Guidelines for Reducing Sodium in Foods; and
- f) Establishing the Working Group on Reducing Sodium in Foods.

16. The Chairman said that the WGRSF welcomed traders to join and work on the issue. The subject would be further discussed in future Trade Consultation Forum when the plans and targets on reduction were taking shape.

Agenda Item 4

Pre-market Safety Assessment of Genetically Modified Food

17. Dr. Ken CHONG briefed the meeting on genetically modified (GM) food and the Pre-market Safety Assessment Scheme (PMSAS) of GM food. He explained to the meeting GM food and its safety assessment as well as the roles of different parties in the proposed PMSAS for GM food locally. The safety of GM food was assessed relative to its conventional counterpart having a history of safe use. In relation to the safety assessment, Codex Alimentarius Commission (Codex) had promulgated different sets of guidelines for the safety assessment of GM food.

18. Dr. Ken CHONG also said that World Health Organization (WHO) recommended setting up regulatory framework for the safety assessment of GM food and different GM organisms should be assessed on a case-by-case basis. To protect public health, many countries had already put in place a mandatory PMSAS for GM food that based on the principles of Codex. For further information on the local proposal of PMSAS, members could refer to the paper “Proposed Regulation of Genetically Modified Food” available on the website of LegCo.

19. The Chairman advised that parties who would be responsible to apply for safety assessment under the proposed PMSAS were confined mainly to biotech companies that developed GM food. According to the information from trade, the products of six biotech companies covered 80% or more of GM food species in the world. Although traders were not responsible for application under the PMSAS, they were required to put in measures to ensure that raw materials contained in their GM food products had been approved.

20. Trade representatives asked on the timeline for introduction of the PMSAS, whether the standards for safety assessment in Hong Kong would match with those in other countries and whether food manufactures in Hong Kong would be required to provide information on their GM food products as the next step after the legislation of PMSAS. The Chairman replied

that it was planned to start public consultation on the PMSAS in the second half of 2013 and the legislative process would commence in 2014 if public opinions were in favour of the legislation. The proposed PMSAS for Hong Kong was formulated based on the principles of Codex. He noticed that the major producing countries of GM food adopted similar principles of Codex. He anticipated that a simplified approach would be adopted for the PMSAS in Hong Kong. In this approach, the safety assessment would make reference to the reports of safety assessment conducted and approved by national food safety regulatory authorities instead of starting safety assessment afresh. Regarding the next step after the legislation of PMSAS, he replied that the priority at the moment was to ensure the safety of GM food and there was no plan for mandatory food labelling of GM food at the moment.

Any Other Business

Maleic Acid in Food

21. Ms. Joey KWOK briefed the meeting on the nature of maleic acid and its related chemical, maleic anhydride. She noted that maleic acid and maleic anhydride were multi-functional chemical intermediates with many industrial applications. Since maleic acid could be used in food contact materials and might migrate to food, and food additives which might contain maleic acid as an impurity could be used for food production, low level of maleic acid might be present in food. The recent incident of maleic acid adulteration in food that occurred in Taiwan, according to the Taiwan authorities, was linked to the abusive use of maleic anhydride during the production of modified starches, some of which were in turn used to manufacture food products.

22. Ms. Joey KWOK noted that the available toxicological evaluation data did not support the safe use of maleic acid directly in food as food additives. However, occasional exposure

to maleic acid that exceeded the tolerable daily intake would unlikely lead to harmful consequences to health. Since the occurrence of the food incident in Taiwan, CFS had contacted the Taiwan authorities promptly for further information, alerted traders and conducted active surveillance. As at 19 June 2013, there were no affected batches of the food products known to be involved in the food incident available in the local market. Samples imported from Taiwan, which might contain modified starches, had been collected for testing of maleic acid and the results were satisfactory. CFS would continue to liaise with the Taiwan authorities and closely monitor the development of the incident.

23. A trade representative sought advice on whether samples tested with satisfactory results meant that there was no maleic acid detected from these samples or the maleic acid detected did not exceed the safety level. Ms. Joey KWOK responded that low level of maleic acid might be present in food due to the reasons explained in para. 21, a corresponding detection level (30 mg/kg) had been set for the testing of maleic acid in food. The Chairman supplemented that all samples tested were not found to contain detectable level of maleic acid. He took the opportunity to remind the trade representatives that CFS would undertake enforcement actions if any food products available for sale were found to contain excessive maleic acid.

Significant Decimal Place Rules

24. A trade representative sought advice on the general application of significant decimal place rules to the detection of cadmium level in chemical analysis at 0.13 ppm vis-à-vis the standard at 0.1 ppm. The Chairman and Mr. CHENG Wai Kit advised that the advice of D of J had been sought on a related case and prosecution was being considered on a case where there was deviation from the standard in law. It was not appropriate to discuss the matter in

details at this juncture.

Definition of Milk Beverage

25. A trade representative suggested that the milk regulations and the definitions of “Milk Beverage” in law should be reviewed to include reduced fat milk that currently fell outside the current definitions of whole milk, non-fat milk and skimmed milk in law. At present, such milk was called “milk beverage”, which was referred to in law as “reconstituted milk”. This was different from the practice in other countries and the latter called it “reduced fat milk”. The Chairman advised that the views and international development were noted but there was no timetable to review the regulations concerned. Nevertheless, CFS would consider conducting a review of the regulations concerned later in future at an opportune time.

Description of “Trace” on Nutrition Label

26. A trade representative sought advice on whether “trace” nutrient, which was acceptable scientifically to describe an undefinable tiny amount and acceptable to many jurisdictions to describe a quantity that was essentially zero but still in traceable but tiny amount, might be used on nutrition label instead of blackening the word on it. The Chairman advised that advice on the matter was being sought with D of J and this would be shared with trade when available.

Number of Samples for Chemical Analysis in Food Surveillance

27. A trade representative suggested that additional samples in a batch of milk product

should be taken for chemical analysis when one sample from the batch was detected with bacteria to confirm that the whole batch was a problem before demanding a general recall of the batch of milk product. Mr. TSE Lai Chi advised that it was necessary to take hold of the whole batch of milk product as a precautionary measure as there was a duty with CFS to ensure all food products sold for human consumption must be safe for their purpose.

Number of Samples for Chemical Analysis in Food Surveillance

28. A trade representative sought advice on the usual follow-up action with CFS on cases of defective milk product as milk products for sale at retail outlet were prone to change in quality due to many various objective external factors in the environment. These external factors were by no means related to the inherent quality of these milk products. Any sample collected from such products detected a problem could be an isolated case and might not affect other same products for sale at the same time. A general recall of all such products would not be advisable. The Chairman advised that follow-up actions taken against milk products at retail outlet would depend on the circumstances of each case. Any general recall of such products would be based on the suspicion that public health would be at risk if such products were allowed for sale at the market. Mr. TSE Lai Chi supplemented that the enforcement action was based on a series of factors including the testing results showing that the milk product might have been contaminated and hence unfit for human consumption.

29. A trade representative suggested that for food processing plants accredited with international food safety standard such as ISO 22000, consideration should be taken not to prosecute when their milk products were detected with a problem upon taking into account of due diligence, though their products should still be removed from the shelf. Mr. TSE Lai Chi advised that, before any prosecution, every possible factor would be considered,

including due diligence. Traders might also plead warranty if they found themselves justified to do so.

Databank of Pesticides

30. A trade representative suggested that the information on pesticides now provided on CFS website in many files should be consolidated into a databank to facilitate traders to search for information. The Chairman noted that the legislation on pesticide residues would come into force on 1 August 2014. He advised that briefing sessions would be organized in the coming months to brief traders on the legislation while the list of pesticides would be updated together with the introduction of some new standards at the same time. The information provided on CFS website would incorporate a search function from pesticide to food commodity or vice versa and this would be launched for viewing on CFS website once completed.

31. A trade representative opined that it took some time to plant agricultural products and the information on prohibited pesticides should be announced well ahead before the legislation coming into force. The Chairman advised that an updated list would in fact allow the application of more pesticides to agricultural products. Traders who might like to apply more pesticides to their agricultural products should keep in view the development of updating the list. More information would be available later.

Legislative Proposal Relating to Formula Products and Foods Intended for Infants and Young Children under the Age of 36 Months in Hong Kong

32. A trade representative sought advice on the progress of legislative proposal relating to

formula products and foods intended for Infants and Young Children under the Age of 36 Months in Hong Kong and the grace period. The Chairman advised that the original plan was to complete the legislative process in the current legislative year but it was postponed to the next one due to other work commitment. Regarding the grace period, there was not yet any decision.

Amendment to Microbiological Guidelines for Ready-to-eat Food

33. A trade representative sought advice on the progress of amendment to microbiological guidelines for ready-to-eat food. The Chairman advised that the issue was being examined. There were three parts in the guidelines. The first part was already reviewed together with trade. The remaining two parts would be reviewed in a technical meeting to be held later.

Date of Next Meeting

34. The next meeting would be held in September 2013.

35. There being no other business, the meeting was adjourned at 4:30 p.m.